

**APPENDIX A****TEXT OF SECTION 251(a) AND SECTION 255  
OF THE COMMUNICATIONS ACT****Section 251. Interconnection.**

(a) GENERAL DUTY OF TELECOMMUNICATIONS CARRIERS.—Each telecommunications carrier has the duty—

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(2) not to install network features, functions, or capabilities that do not comply with the guidelines and standards established pursuant to section 255 or 256.

**Section 255. Access by Persons with Disabilities.**

(a) DEFINITIONS.—As used in this section—

(1) DISABILITY.—The term “disability” has the meaning given to it by section 3(2)(A) of the Americans with Disabilities Act of 1990 (42 U.S.C. 12102(2)(A)).

(2) READILY ACHIEVABLE.—The term “readily achievable” has the meaning given to it by section 301(9) of that Act (42 U.S.C. 12181(9)).

(b) MANUFACTURING.—A manufacturer of telecommunications equipment or customer premises equipment shall ensure that the equipment is designed, developed, and fabricated to be accessible to and usable by individuals with disabilities, if readily achievable.

(c) TELECOMMUNICATIONS SERVICES.—A provider of telecommunications service shall ensure that the service is accessible to and usable by individuals with disabilities, if readily achievable.

(d) COMPATIBILITY.—Whenever the requirements of subsections (b) and (c) are not readily achievable, such a manufacturer or provider shall ensure that the equipment or service is compatible with existing peripheral devices or specialized customer premises equipment commonly used by individuals with disabilities to achieve access, if readily achievable.

(e) GUIDELINES.—Within 18 months after the date of enactment of the Telecommunications Act of 1996, the Architectural and Transportation Barriers Compliance Board shall develop guidelines for accessibility of telecommunications equipment and customer premises equipment in conjunction with the Commission. The Board shall review and update the guidelines periodically.

(f) **NO ADDITIONAL PRIVATE RIGHTS AUTHORIZED.**—Nothing in this section shall be construed to authorize any private right of action to enforce any requirement of this section or any regulation thereunder. The Commission shall have exclusive jurisdiction with respect to any complaint under this section.

**APPENDIX B****Amendment to the Code of Federal Regulations**

**1) Title 47 of the Code of Federal Regulations (C.F.R.) is amended by adding the following new Parts 6 and 7:**

**Subpart A -- Scope - Who must comply with these rules?**

§ 6.1 Who must comply with these rules?

**Subpart B -- Definitions**

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**Subpart C -- Obligations - What must covered entities do?**

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§ 6.19 Answers to informal complaints

§ 6.20 Review and disposition of informal complaints

§ 6.21 Formal Complaints, applicability of Sections 1.720 - 1.736 of the rules

§ 6.22 Formal complaints based on unsatisfied informal complaints

§ 6.23 Actions by the Commission on its on motion

Authority: 47 U.S.C. 154(i), 154(j) 208, 255

**Subpart A -- Scope - Who must comply with these rules?**

§ 6.1 The rules in this part apply to:

(a) any provider of telecommunications service;

(b) any manufacturer of telecommunications equipment or customer premises equipment; and

(c) any telecommunications carrier.

**Subpart B -- Definitions.**

### § 6.3 Definitions

(a) The term *accessible* shall mean that:

(1) Input, control, and mechanical functions shall be locatable, identifiable, and operable in accordance with each of the following, assessed independently:

(i) Operable without vision. Provide at least one mode that does not require user vision.

(ii) Operable with low vision and limited or no hearing. Provide at least one mode that permits operation by users with visual acuity between 20/70 and 20/200, without relying on audio output.

(iii) Operable with little or no color perception. Provide at least one mode that does not require user color perception.

(iv) Operable without hearing. Provide at least one mode that does not require user auditory perception.

(v) Operable with limited manual dexterity. Provide at least one mode that does not require user fine motor control or simultaneous actions.

(vi) Operable with limited reach and strength. Provide at least one mode that is operable with user limited reach and strength.

(vii) Operable with a Prosthetic Device. Controls shall be operable without requiring body contact or close body proximity.

(viii) Operable without time-dependent controls. Provide at least one mode that does not require a response time or allows response time to be by-passed or adjusted by the user over a wide range.

(ix) Operable without speech. Provide at least one mode that does not require user speech.

(x) Operable with limited cognitive skills. Provide at least one mode that minimizes the cognitive, memory, language, and learning skills required of the user.

(2) All information necessary to operate and use the product, including but not limited to, text, static or dynamic images, icons, labels, sounds, or incidental operating cues, comply with each of the following, assessed independently:

(i) Availability of visual information. Provide visual information through at least one mode in auditory form.

- (ii) Availability of visual information for low vision users. Provide visual information through at least one mode to users with visual acuity between 20/70 and 20/200 without relying on audio.
  - (iii) Access to moving text. Provide moving text in at least one static presentation mode at the option of the user.
  - (iv) Availability of auditory information. Provide auditory information through at least one mode in visual form and, where appropriate, in tactile form.
  - (v) Availability of auditory information for people who are hard of hearing. Provide audio or acoustic information, including any auditory feedback tones that are important for the use of the product, through at least one mode in enhanced auditory fashion (i.e., increased amplification, increased signal-to-noise ratio, or combination).
  - (vi) Prevention of visually-induced seizures. Visual displays and indicators shall minimize visual flicker that might induce seizures in people with photosensitive epilepsy.
  - (vii) Availability of audio cutoff. Where a product delivers audio output through an external speaker, provide an industry standard connector for headphones or personal listening devices (e.g., phone-like handset or earcup) which cuts off the speaker(s) when used.
  - (viii) Non-interference with hearing technologies. Reduce interference to hearing technologies (including hearing aids, cochlear implants, and assistive listening devices) to the lowest possible level that allows a user to utilize the product.
  - (ix) Hearing aid coupling. Where a product delivers output by an audio transducer which is normally held up to the ear, provide a means for effective wireless coupling to hearing aids.
- (b) The term *compatibility* shall mean compatible with peripheral devices and specialized customer premises equipment commonly used by individuals with disabilities to achieve accessibility to telecommunications services, and in compliance with the following provisions, as applicable:
- (1) External electronic access to all information and control mechanisms. Information needed for the operation of products (including output, alerts, icons, on-line help, and documentation) shall be available in a standard electronic text format on a cross-industry standard port and all input to and control of a product shall allow for real time operation by electronic text input into a cross-industry standard external port and in cross-industry standard format. The cross-industry standard port shall not require manipulation of a connector by the user.

- (2) Connection point for external audio processing devices. Products providing auditory output shall provide the auditory signal at a standard signal level through an industry standard connector.
- (3) TTY connectability. Products which provide a function allowing voice communication and which do not themselves provide a TTY functionality shall provide a standard non-acoustic connection point for TTYs. It shall also be possible for the user to easily turn any microphone on and off to allow the user to intermix speech with TTY use.
- (4) TTY signal compatibility. Products, including those providing voice communication functionality, shall support use of all cross-manufacturer non-proprietary standard signals used by TTYs.
- (c) The term *customer premises equipment* shall mean equipment employed on the premises of a person (other than a carrier) to originate, route, or terminate telecommunications.
- (d) The term *disability* shall mean a physical or mental impairment that substantially limits one or more of the major life activities of an individual; a record of such an impairment; or being regarded as having such an impairment.
- (e) The term *manufacturer* shall mean an entity that makes or produces a product.
- (f) The term *peripheral devices* shall mean devices employed in connection with equipment covered by this part to translate, enhance, or otherwise transform telecommunications into a form accessible to individuals with disabilities.
- (g) The term *readily achievable* shall mean, in general, easily accomplishable and able to be carried out without much difficulty or expense. In determining whether an action is readily achievable, factors to be considered include:
- (1) the nature and cost of the action needed;
  - (2) the overall financial resources of the manufacturer or service provider involved in the action (the covered entity); the number of persons employed by such manufacturer or service provider; the effect on expenses and resources, or the impact otherwise of such action upon the operations of the manufacturer or service provider;
  - (3) If applicable, the overall financial resources of the parent of the entity; the overall size of the business of the parent entity with respect to the number of its employees; the number, type, and location of its facilities; and
  - (4) If applicable, the type of operation or operations of the covered entity, including the composition, structure and functions of the workforce of such entity; and the geographic separateness, administrative or fiscal relationship of the covered entity

in question to the parent entity.

(h) The term *specialized customer premises equipment* shall mean customer premise equipment which is commonly used by individuals with disabilities to achieve access.

(i) The term *telecommunications equipment* shall mean equipment, other than customer premises equipment, used by a carrier to provide telecommunications services, and includes software integral to such equipment (including upgrades).

(j) The term *telecommunications service* shall mean the offering of telecommunications for a fee directly to the public, or to such classes of users as to be effectively available directly to the public, regardless of the facilities used.

(k) The term *usable* shall mean that individuals with disabilities have access to the full functionality and documentation for the product, including instructions, product information (including accessible feature information), documentation, bills and technical support which is provided to individuals without disabilities.

#### **Subpart C -- Obligations - What must covered entities do?**

##### **§ 6.5 General Obligations**

###### **(a) Obligation of Manufacturers**

(1) A manufacturer of telecommunications equipment or customer premises equipment shall ensure that the equipment is designed, developed and fabricated so that the telecommunications functions of the equipment are accessible to and usable by individuals with disabilities, if readily achievable.

(2) Whenever the requirements of paragraph (1) are not readily achievable, the manufacturer shall ensure that the equipment is compatible with existing peripheral devices or specialized customer premises equipment commonly used by individuals with disabilities to achieve access, if readily achievable.

###### **(b) Obligation of Service Providers**

(1) A provider of a telecommunications service shall ensure that the service is accessible to and usable by individuals with disabilities, if readily achievable.

(2) Whenever the requirements of paragraph (1) are not readily achievable, the service provider shall ensure that the service is compatible with existing peripheral devices or specialized customer premises equipment commonly used by individuals with disabilities to achieve access, if readily achievable.

(c) **Obligation of Telecommunications Carriers.** Each telecommunications carrier must not install network features, functions, or capabilities that do not comply with the guidelines and standards established pursuant to this Part or Part 7.

§ 6.7 Product design, development, and evaluation.

(a) Manufacturers and service providers shall evaluate the accessibility, usability, and compatibility of equipment and services covered by this part and shall incorporate such evaluation throughout product design, development, and fabrication, as early and consistently as possible. Manufacturers and service providers shall identify barriers to accessibility and usability as part of such a product design and development process.

(b) In developing such a process, manufacturers and service providers shall consider the following factors, as the manufacturer deems appropriate:

(1) Where market research is undertaken, including individuals with disabilities in target populations of such research;

(2) Where product design, testing, pilot demonstrations, and product trials are conducted, including individuals with disabilities in such activities;

(3) Working cooperatively with appropriate disability-related organizations; and

(4) Making reasonable efforts to validate any unproven access solutions through testing with individuals with disabilities or with appropriate disability-related organizations that have established expertise with individuals with disabilities.

§ 6.9 Information pass through.

Telecommunications equipment and customer premises equipment shall pass through cross-manufacturer, non-proprietary, industry-standard codes, translation protocols, formats or other information necessary to provide telecommunications in an accessible format, if readily achievable. In particular, signal compression technologies shall not remove information needed for access or shall restore it upon decompression.

§ 6.11 Information, documentation, and training.

(a) Manufacturers and service providers shall ensure access to information and documentation it provides to its customers, if readily achievable. Such information and documentation includes user guides, bills, installation guides for end-user installable devices, and product support communications, regarding both the product in general and the accessibility features of the product. Manufacturers shall take such other readily achievable steps as necessary including:



(1) Providing a description of the accessibility and compatibility features of the product upon request, including, as needed, in alternate formats or alternate modes at no additional charge;

(2) Providing end-user product documentation in alternate formats or alternate modes upon request at no additional charge; and

(3) Ensuring usable customer support and technical support in the call centers and service centers which support their products at no additional charge.

(b) Manufacturers and service providers shall include in general product information the contact method for obtaining the information required by paragraph (a) of this section.

(c) In developing, or incorporating existing training programs, manufacturers and service providers, shall consider the following topics:

- (1) Accessibility requirements of individuals with disabilities;
- (2) Means of communicating with individuals with disabilities;
- (3) Commonly used adaptive technology used with the manufacturer's products;
- (4) Designing for accessibility; and
- (5) Solutions for accessibility and compatibility.

#### **Subpart D -- Enforcement**

##### **§ 6.15 Generally**

(a) All manufacturers of telecommunications equipment or customer premise equipment (CPE) and all providers of telecommunications services, as defined under this subpart, are subject to the enforcement provisions specified in the Act and the Commission's rules.

(b) For purposes of sections 6.15 - 6.23 of this subpart, the term "manufacturers" shall denote manufacturers of telecommunications equipment or CPE and the term "providers" shall denote providers of telecommunications services.

##### **§ 6.16 Informal or formal complaints**

Complaints against manufacturers or providers, as defined under this subpart, for alleged violations of this subpart may be either informal or formal.

##### **§ 6.17 Informal complaints; form and content**

(a) An informal complaint alleging a violation of section 255 of the Act or this subpart may be transmitted to the Commission by any reasonable means, e.g., letter, facsimile transmission, telephone (voice/TRS/TTY), Internet e-mail, ASCII text, audio-cassette recording,

and braille.

(b) An informal complaint shall include:

- (1) The name and address of the complainant;
- (2) The name and address of the manufacturer or provider against whom the complaint is made;
- (3) A full description of the telecommunications equipment or CPE and/or the telecommunications service about which the complaint is made;
- (4) The date or dates on which the complainant either purchased, acquired or used, or attempted to purchase, acquire or use the telecommunications equipment, CPE or telecommunications service about which the complaint is being made;
- (5) A complete statement of the facts, including documentation where available, supporting the complainant's allegation that: such telecommunications service, or such telecommunications equipment or CPE, is not accessible to, or usable by, a person with a particular disability or persons with disabilities within the meaning of this subpart and section 255 of the Act; or that the defendant has otherwise failed to comply with the requirements of this subpart;
- (6) The specific relief or satisfaction sought by the complainant, and
- (7) The complainant's preferred format or method of response to the complaint by the Commission and defendant (e.g., letter, facsimile transmission, telephone (voice/TRS/TTY), Internet e-mail, ASCII text, audio-cassette recording, braille; or some other method that will best accommodate the complainant's disability)

§ 6.18 Procedure; designation of agents for service

(a) The Commission shall promptly forward any informal complaint meeting the requirements of subsection 6.17 of this subpart to each manufacturer and provider named in or determined by the staff to be implicated by the complaint. Such manufacturer(s) or provider(s) shall be called on to satisfy or answer the complaint within the time specified by the Commission.

(b) To ensure prompt and effective service of informal and formal complaints filed under this subpart, every manufacturer and provider subject to the requirements of section 255 of the Act and this subpart, shall designate an agent, and may designate additional agents if it so chooses, upon whom service may be made of all notices, inquiries, orders, decisions, and other pronouncements of the Commission in any matter before the Commission. Such designation shall include, for both the manufacturer or the provider, a name or department designation, business address, telephone number, and, if available TTY number, facsimile number, and Internet e-mail address.

§ 6.19 Answers to informal complaints.

Any manufacturer or provider to whom an informal complaint is directed by the

Commission under this subpart shall file an answer within the time specified by the Commission. The answer shall:

- (1) be prepared or formatted in the manner requested by the complainant pursuant to section 6.17 of this subpart, unless otherwise permitted by the Commission for good cause shown;
- (2) describe any actions that the defendant has taken or proposes to take to satisfy the complaint;
- (3) advise the complainant and the Commission of the nature of the defense(s) claimed by the defendant;
- (4) respond specifically to all material allegations of the complaint; and
- (5) provide any other information or materials specified by the Commission as relevant to its consideration of the complaint.

#### § 6.20 Review and disposition of informal complaints

(a) Where it appears from the defendant's answer, or from other communications with the parties, that an informal complaint has been satisfied, the Commission may, in its discretion, consider the informal complaint closed, without response to the complainant or defendant. In all other cases, the Commission shall inform the parties of its review and disposition of a complaint filed under this subpart. Where practicable, this information (the nature of which is specified in subsections (b) - (d) of this section, shall be transmitted to the complainant and defendant in the manner requested by the complainant, (e.g., letter, facsimile transmission, telephone (voice/TRS/TTY), Internet e-mail, ASCII text, audio-cassette recording, or braille).

(b) In the event the Commission determines, based on a review of the information provided in the informal complaint and the defendant's answer thereto, that no further action is required by the Commission with respect to the allegations contained in the informal complaint, the informal complaint shall be closed and the complainant and defendant shall be duly informed of the reasons therefor. A complainant unsatisfied with the defendant's response to the informal complaint and the staff decision to terminate action on the informal complaint may file a formal complaint with the Commission, as specified in section 6.22 of this subpart.

(c) In the event the Commission determines, based on a review of the information presented in the informal complaint and the defendant's answer thereto, that a material and substantial question remains as to the defendant's compliance with the requirements of this subpart, the Commission may conduct such further investigation or such further proceedings as may be necessary to determine the defendant's compliance with the requirements of this subpart and to determine what, if any, remedial actions and/or sanctions are warranted.

(d) In the event that the Commission determines, based on a review of the information presented in the informal complaint and the defendant's answer thereto, that the defendant has failed to comply with or is presently not in compliance with the requirements of this subpart, the Commission may order or prescribe such remedial actions and/or sanctions as are authorized

under the Act and the Commission's rules and which are deemed by the Commission to be appropriate under the facts and circumstances of the case.

§ 6.21 Formal Complaints, applicability of Sections 1.720 - 1.736 of the Rules

Formal complaints against a manufacturer or provider, as defined under this subpart, may be filed in the form and in the manner prescribed under Sections 1.720 - 1.736 of the Commission's rules. Commission staff may grant waivers of, or exceptions to, particular requirements under Sections 1.720 - 1.736 for good cause shown; provided, however, that such waiver authority may not be exercised in a manner that relieves, or has the effect of relieving, a complainant of the obligation under sections 1.720 and 1.728 of the rules to allege facts which, if true, are sufficient to constitute a violation or violations of section 255 of the Act or this subpart.

§ 6.22 Formal complaints based on unsatisfied informal complaints

A formal complaint filing based on an unsatisfied informal complaint filed pursuant to subsection 4.16 of this subpart shall be deemed to relate back to the filing date of the informal complaint if it is: (1) filed within ninety days from the date that the Commission notifies the complainant of its disposition of the informal complaint and (2) based on the same operative facts as those alleged in the informal complaint.

§ 6.23 Actions by the Commission on its own motion

The Commission may on its own motion conduct such inquiries and hold such proceedings as it may deem necessary to enforce the requirements of this subpart and Section 255 of the Communications Act. The procedures to be followed by the Commission shall, unless specifically prescribed in the Act and the Commission's rules, be such as in the opinion of the Commission will best serve the purposes of such inquiries and proceedings.

Authority: 47 U.S.C. 154(i), 154(j) 208, 255

**47 C.F.R. Part 7**

**Subpart A -- Scope - Who must comply with these rules?**

§ 7.1 Who must comply with these rules?

**Subpart B -- Definitions**

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§ 7.23 Actions by the Commission on its on motion

Authority: 47 U.S.C. Section 1, 154(i), 154(j) 208, 255

**Subpart A -- Scope - Who must comply with these rules?**

§ 7.1 The rules in this part apply to:

(a) any provider of voicemail or interactive menu service;

(b) any manufacturer of telecommunications equipment or customer premises equipment which performs a voicemail or interactive menu function.

**Subpart B -- Definitions.**

§ 7.3 Definitions

(a) The term *accessible* shall mean that:

(1) Input, control, and mechanical functions shall be locatable, identifiable, and operable in accordance with each of the following, assessed independently:

(i) Operable without vision. Provide at least one mode that does not require user vision.

(ii) Operable with low vision and limited or no hearing. Provide at least one mode that permits operation by users with visual acuity between 20/70 and 20/200, without relying on audio output.

(iii) Operable with little or no color perception. Provide at least one mode that does not require user color perception.

(iv) Operable without hearing. Provide at least one mode that does not require user auditory perception.

(v) Operable with limited manual dexterity. Provide at least one mode that does not require user fine motor control or simultaneous actions.

(vi) Operable with limited reach and strength. Provide at least one mode that is operable with user limited reach and strength.

(vii) Operable with a Prosthetic Device. Controls shall be operable without requiring body contact or close body proximity.

(viii) Operable without time-dependent controls. Provide at least one mode that does not require a response time or allows a response to be by-passed or adjusted by the user over a wide range.

(ix) Operable without speech. Provide at least one mode that does not require user speech.

(x) Operable with limited cognitive skills. Provide at least one mode that minimizes the cognitive, memory, language, and learning skills required of the user.

(2) All information necessary to operate and use the product, including but not limited to, text, static or dynamic images, icons, labels, sounds, or incidental operating cues, comply with each of the following, assessed independently:

(i) Availability of visual information. Provide visual information through at least one mode in auditory form.

- (ii) Availability of visual information for low vision users. Provide visual information through at least one mode to users with visual acuity between 20/70 and 20/200 without relying on audio.
  - (iii) Access to moving text. Provide moving text in at least one static presentation mode at the option of the user.
  - (iv) Availability of auditory information. Provide auditory information through at least one mode in visual form and, where appropriate, in tactile form.
  - (v) Availability of auditory information for people who are hard of hearing. Provide audio or acoustic information, including any auditory feedback tones that are important for the use of the product, through at least one mode in enhanced auditory fashion (i.e., increased amplification, increased signal-to-noise ratio, or combination).
  - (vi) Prevention of visually-induced seizures. Visual displays and indicators shall minimize visual flicker that might induce seizures in people with photosensitive epilepsy.
  - (vii) Availability of audio cutoff. Where a product delivers audio output through an external speaker, provide an industry standard connector for headphones or personal listening devices (e.g., phone-like handset or earcup) which cuts off the speaker(s) when used.
  - (viii) Non-interference with hearing technologies. Reduce interference to hearing technologies (including hearing aids, cochlear implants, and assistive listening devices) to the lowest possible level that allows a user to utilize the product.
  - (ix) Hearing aid coupling. Where a product delivers output by an audio transducer which is normally held up to the ear, provide a means for effective wireless coupling to hearing aids.
- (b) The term *compatibility* shall mean compatible with peripheral devices and specialized customer premises equipment commonly used by individuals with disabilities to achieve accessibility to voicemail and interactive menus, and in compliance with the following provisions, as applicable:

- (1) External electronic access to all information and control mechanisms. Information needed for the operation of products (including output, alerts, icons, on-line help, and documentation) shall be available in a standard electronic text format on a cross-industry standard port and all input to and control of a product shall allow for real time operation by electronic text input into a cross-industry standard external port and in cross-industry standard format. The cross-industry standard port shall not require manipulation of a connector by the user.
  - (2) Connection point for external audio processing devices. Products providing auditory output shall provide the auditory signal at a standard signal level through an industry standard connector.
  - (3) TTY connectability. Products which provide a function allowing voice communication and which do not themselves provide a TTY functionality shall provide a standard non-acoustic connection point for TTYs. It shall also be possible for the user to easily turn any microphone on and off to allow the user to intermix speech with TTY use.
  - (4) TTY signal compatibility. Products, including those providing voice communication functionality, shall support use of all cross-manufacturer non-proprietary standard signals used by TTYs.
- (c) The term *customer premises equipment* shall mean equipment employed on the premises of a person (other than a carrier) to originate, route, or terminate telecommunications.
- (d) The term *disability* shall mean a physical or mental impairment that substantially limits one or more of the major life activities of an individual; a record of such an impairment; or being regarded as having such an impairment.
- (e) The term *interactive menu* shall mean a feature that allows a service provider or operator of CPE to transmit information to a caller in visual and/or audible format for the purpose of management, control, or operations of a telecommunications system or service; and/or to request information from the caller in visual and/or audible format for the purpose of management, control, or operations of a telecommunications system or service; and/or to receive information from the caller in visual and/or audible format in response to a request, for the purpose of management, control, or operations of a telecommunications system or service. This feature, however, does not include the capability for generating, acquiring, storing, transforming, processing, retrieving, utilizing, or making available information via telecommunications for any purpose other than management, control, or operations of a telecommunications system or service.
- (f) The term *manufacturer* shall mean an entity that makes or produces a product..
- (g) The term *peripheral devices* shall mean devices employed in connection with equipment covered by this part to translate, enhance, or otherwise transform telecommunications into a form



accessible to individuals with disabilities.

(h) The term *phone to phone internet protocol telephony* shall mean real time voice telecommunications established between two units of customer premises equipment (CPE) attached to the Public Switched Telephone Network (PSTN), in which only part of the connection between the two units of CPE is routed through the PSTN, and part through a public or private internet protocol network carrying digitally encoded voice within internet protocol packets.

(i) The term *readily achievable* shall mean, in general, easily accomplishable and able to be carried out without much difficulty or expense. In determining whether an action is readily achievable, factors to be considered include:

- (1) the nature and cost of the action needed;
- (2) the overall financial resources of the manufacturer or service provider involved in the action (the covered entity); the number of persons employed by such manufacturer or service provider; the effect on expenses and resources, or the impact otherwise of such action upon the operations of the manufacturer or service provider;
- (3) If applicable, the overall financial resources of the parent of the covered entity; the overall size of the business of the parent of the covered entity with respect to the number of its employees; the number, type, and location of its facilities; and
- (4) If applicable, the type of operation or operations of the covered entity, including the composition, structure and functions of the workforce of such entity; and the geographic separateness, administrative or fiscal relationship of covered entity in question to the parent entity.

(j) The term *specialized customer premises equipment* shall mean customer premise equipment which is commonly used by individuals with disabilities to achieve access.

(k) The term *telecommunications equipment* shall mean equipment, other than customer premises equipment, used by a carrier to provide telecommunications services, and includes software integral to such equipment (including upgrades).

(l) The term *telecommunications service* shall mean the offering of telecommunications for a fee directly to the public, or to such classes of users as to be effectively available directly to the public, regardless of the facilities used.

(m) The term *usable* shall mean that individuals with disabilities have access to the full

functionality and documentation for the product, including instructions, product information (including accessible feature information), documentation, bills and technical support which is provided to individuals without disabilities.

(n) The term *Voice mail* shall mean the capability of answering calls and recording incoming messages when a line is busy or does not answer within a pre-specified amount of time or number of rings; receiving those messages at a later time; and may also include the ability to determine the sender and time of transmission without hearing the entire message; the ability to forward the message to another voice massaging customer, with and/or without an appended new message; the ability for the sender to confirm receipt of a message; the ability to send, receive, and/or store facsimile messages; and possibly other features.

### **Subpart C -- Obligations - What must covered entities do?**

#### **§ 7.5 General Obligations**

##### **(a) Obligation of Manufacturers**

(1) A manufacturer of telecommunications equipment or customer premises equipment covered by this part shall ensure that the equipment is designed, developed and fabricated so that the voicemail and interactive menu functions are accessible to and usable by individuals with disabilities, if readily achievable.

(2) Whenever the requirements of paragraph (1) are not readily achievable, the manufacturer shall ensure that the equipment or software is compatible with existing peripheral devices or specialized customer premises equipment commonly used by individuals with disabilities to achieve access, if readily achievable.

##### **(b) Obligation of Service Providers**

(1) A provider of voicemail or interactive menu shall ensure that the service is accessible to and usable by individuals with disabilities, if readily achievable.

(2) Whenever the requirements of paragraph (1) are not readily achievable, the service provider shall ensure that the service is compatible with existing peripheral devices or specialized customer premises equipment commonly used by individuals with disabilities to achieve access, if readily achievable.

#### **§ 7.7 Product design, development, and evaluation.**

(a) Manufacturers and service providers shall evaluate the accessibility, usability, and compatibility of equipment and services covered by this part and shall incorporate such evaluation

throughout product design, development, and fabrication, as early and consistently as possible. Manufacturers and service providers shall identify barriers to accessibility and usability as part of such a product design and development process.

(b) In developing such a process, manufacturers and service providers shall consider the following factors, as the manufacturer deems appropriate:

(1) Where market research is undertaken, including individuals with disabilities in target populations of such research;

(2) Where product design, testing, pilot demonstrations, and product trials are conducted, including individuals with disabilities in such activities;

(3) Working cooperatively with appropriate disability-related organizations; and

(4) Making reasonable efforts to validate any unproven access solutions through testing with individuals with disabilities or with appropriate disability-related organizations that have established expertise with individuals with disabilities.

#### § 7.9 Information pass through.

Telecommunications equipment and customer premises equipment shall pass through cross-manufacturer, non-proprietary, industry-standard codes, translation protocols, formats or other information necessary to provide telecommunications in an accessible format, if readily achievable. In particular, signal compression technologies shall not remove information needed for access or shall restore it upon decompression.

#### § 7.11 Information, documentation, and training.

(a) Manufacturers and service providers shall ensure access to information and documentation it provides to its customers, if readily achievable.

Such information and documentation includes user guides, bills, installation guides for end-user installable devices, and product support communications, regarding both the product in general and the accessibility features of the product. Manufacturers shall take such other readily achievable steps as necessary including:

(1) Providing a description of the accessibility and compatibility features of the product upon request, including, as needed, in alternate formats or alternate modes at no additional charge;

(2) Providing end-user product documentation in alternate formats or alternate modes upon request at no additional charge; and

(3) Ensuring usable customer support and technical support in the call centers and service centers which support their products at no additional charge.

(b) Manufacturers and service providers shall include in general product information the contact method for obtaining the information required by paragraph (a) of this section.

(c) In developing, or incorporating existing training programs, manufacturers and service providers shall consider the following topics:

- (1) Accessibility requirements of individuals with disabilities;
- (2) Means of communicating with individuals with disabilities;
- (3) Commonly used adaptive technology used with the manufacturer's products;
- (4) Designing for accessibility; and
- (5) Solutions for accessibility and compatibility.

#### **Subpart D -- Enforcement**

##### **§ 7.15 Generally**

(a) For purposes of sections 7.15 - 7.23 of this subpart, the term "manufacturers" shall denote any manufacturer of telecommunications equipment or customer premises equipment which performs a voicemail or interactive menu function.

(b) All manufacturers of telecommunications equipment or customer premise equipment (CPE) and all providers of voicemail and interactive menu services, as defined under this subpart, are subject to the enforcement provisions specified in the Act and the Commission's rules.

(c) The term "providers" shall denote any provider of voicemail or interactive menu service.

##### **§ 7.16 Informal or formal complaints**

Complaints against manufacturers or providers, as defined under this subpart, for alleged violations of this subpart may be either informal or formal.

##### **§ 7.17 Informal complaints; form and content**

(a) An informal complaint alleging a violation of section 255 of the Act or this subpart may be transmitted to the Commission by any reasonable means, e.g., letter, facsimile transmission, telephone (voice/TRS/TTY), Internet e-mail, ASCII text, Internet e-mail, audio-cassette recording, and braille.

(b) An informal complaint shall include:

- (1) The name and address of the complainant;
- (2) The name and address of the manufacturer or provider against whom the complaint is made;
- (3) A full description of the telecommunications equipment or CPE and/or the telecommunications service about which the complaint is made;
- (4) The date or dates on which the complainant either purchased, acquired or used, or attempted to purchase, acquire or use the telecommunications equipment, CPE or telecommunications service about which the complaint is being made;
- (5) A complete statement of the facts, including documentation where available, supporting the complainant's allegation that: such telecommunications service, or such telecommunications equipment or CPE, is not accessible to, or usable by, a person with a particular disability or persons with disabilities within the meaning of this subpart and section 255 of the Act; or that the defendant has otherwise failed to comply with the requirements of this subpart.
- (6) The specific relief or satisfaction sought by the complainant, and
- (7) The complainant's preferred format or method of response to the complaint by the Commission and defendant (e.g., letter, facsimile transmission, telephone (voice/TRS/TTY), Internet e-mail, ASCII text, audio-cassette recording, braille; or some other method that will best accommodate the complainant's disability)

§ 7.18 Procedure; designation of agents for service

(a) The Commission shall promptly forward any informal complaint meeting the requirements of subsection 4.17 of this subpart to each manufacturer and provider named in or determined by the staff to be implicated by the complaint. Such manufacturer(s) or provider(s) shall be called on to satisfy or answer the complaint within the time specified by the Commission.

(b) To ensure prompt and effective service of informal and formal complaints filed under this subpart, every manufacturer and provider subject to the requirements of section 255 of the Act and this subpart, shall designate an agent, and may designate additional agents if it so chooses, upon whom service may be made of all notices, inquiries, orders, decisions, and other pronouncements of the Commission in any matter before the Commission. Such designation shall include, for both the manufacturer or the provider, a name or department designation, business address, telephone number, and, if available TTY number, facsimile number, and Internet e-mail address.

§ 7.19 Answers to informal complaints.

Any manufacturer or provider to whom an informal complaint is directed by the Commission under this subpart shall file an answer within the time specified by the Commission. The answer shall:

- (1) be prepared or formatted in the manner requested by the complainant pursuant to section 7.17 of this subpart, unless otherwise permitted by the Commission for good cause shown;

- (2) describe any actions that the defendant has taken or proposes to take to satisfy the complaint;
- (3) advise the complainant and the Commission of the nature of the defense(s) claimed by the defendant;
- (4) respond specifically to all material allegations of the complaint; and
- (5) provide any other information or materials specified by the Commission as relevant to its consideration of the complaint.

#### § 7.20 Review and disposition of informal complaints

(a) Where it appears from the defendant's answer, or from other communications with the parties, that an informal complaint has been satisfied, the Commission may, in its discretion, consider the informal complaint closed, without response to the complainant or defendant. In all other cases, the Commission shall inform the parties of its review and disposition of a complaint filed under this subpart. Where practicable, this information (the nature of which is specified in subsections (b) - (d) of this section, shall be transmitted to the complainant and defendant in the manner requested by the complainant, (e.g., letter, facsimile transmission, telephone (voice/TRS/TTY), Internet e-mail, ASCII text, audio-cassette recording, or braille).

(b) In the event the Commission determines, based on a review of the information provided in the informal complaint and the defendant's answer thereto, that no further action is required by the Commission with respect to the allegations contained in the informal complaint, the informal complaint shall be closed and the complainant and defendant shall be duly informed of the reasons therefor. A complainant unsatisfied with the defendant's response to the informal complaint and the staff decision to terminate action on the informal complaint may file a formal complaint with the Commission, as specified in section 7.22 of this subpart.

(c) In the event the Commission determines, based on a review of the information presented in the informal complaint and the defendant's answer thereto, that a material and substantial question remains as to the defendant's compliance with the requirements of this subpart, the Commission may conduct such further investigation or such further proceedings as may be necessary to determine the defendant's compliance with the requirements of this subpart and to determine what, if any, remedial actions and/or sanctions are warranted.

(d) In the event that the Commission determines, based on a review of the information presented in the informal complaint and the defendant's answer thereto, that the defendant has failed to comply with or is presently not in compliance with the requirements of this subpart, the Commission may order or prescribe such remedial actions and/or sanctions as are authorized under the Act and the Commission's rules and which are deemed by the Commission to be appropriate under the facts and circumstances of the case.

§ 7.21 Formal Complaints, applicability of Sections 1.720 - 1.736 of the Rules

Formal complaints against a manufacturer or provider, as defined under this subpart, may be filed in the form and in the manner prescribed under Sections 1.720 - 1.736 of the Commission's rules. Commission staff may grant waivers of, or exceptions to, particular requirements under Sections 1.720 - 1.736 for good cause shown; provided, however, that such waiver authority may not be exercised in a manner that relieves, or has the effect of relieving, a complainant of the obligation under sections 1.720 and 1.728 of the rules to allege facts which, if true, are sufficient to constitute a violation or violations of section 255 of the Act or this subpart.

§ 7.22 Formal complaints based on unsatisfied informal complaints

A formal complaint filing based on an unsatisfied informal complaint filed pursuant to subsection 4.16 of this subpart shall be deemed to relate back to the filing date of the informal complaint if it is: (1) filed within ninety days from the date that the Commission notifies the complainant of its disposition of the informal complaint and (2) based on the same operative facts as those alleged in the informal complaint.

§ 7.23 Actions by the Commission on its on motion

The Commission may on its own motion conduct such inquiries and hold such proceedings as it may deem necessary to enforce the requirements of this subpart and Section 255 of the Communications Act. The procedures to be followed by the Commission shall, unless specifically prescribed in the Act and the Commission's rules, be such as in the opinion of the Commission will best serve the purposes of such inquiries and proceedings.

**(2) §1.1202(d)(2) of Title 47 of the Code of Federal Regulations (C.F.R.) is amended to read as follows:**

(2) Any person who files a complaint which shows that the complainant has served it on the subject of the complaint or which is a formal complaint under 47 U.S.C. §208 and §1.721 or 47 U.S.C. §255 and either §6.17 or §7.17, and the person who is the subject of such a complaint that shows service or is a formal complaint under 47 U.S.C. §208 and §1.721 or 47 U.S.C. §255 and either §6.17 and §7.17.

**(3) §1.1204(b)(5) of Part 1 of Title 47 of the Code of Federal Regulations (C.F.R.) is amended to read as follows:**

(5) An informal complaint proceeding under 47 U.S.C. §208 and §1.717 or 47 U.S.C. §255 and either §6.17 or §7.17; and Authority: 47 U.S.C. Section 1, 154(i), 154(j) 208, 255

**APPENDIX C**  
**LIST OF COMMENTERS**

**Comments**

Abols, Bonnie (Warwick RI) (Ocean State Center for Independent Living)  
Access Living of Metropolitan Chicago  
Access to Independence and Mobility [AIM]  
AirTouch Communications, Inc. [AirTouch]  
American Council of the Blind [ACB]  
American Public Communications Council [APCC]  
Ameritech  
Andrews, Joan (Punta Gorda FL)  
Architectural and Transportation Barriers Compliance Board [Access Board]  
Association of Access Engineering Specialists [AAES]  
AT&T Corp. [AT&T]  
Bechtel, Gene A. (Washington DC)  
Bell Atlantic  
BellSouth Corporation [BellSouth]  
Blackseth, Kim  
Born, Deanne (Farmington CT)  
Brightpoint, Inc. [Brightpoint]  
Business Software Alliance [BSA]  
Butler, Mary M. (Lorain OH) (Center for Independent Living)  
California Foundation for Independent Living Centers [CFILC]  
Carpenter, Patricia  
Cellular Phone Taskforce [Taskforce]  
Cellular Telecommunications Industry Association [CTIA]  
Center for Disability Rights [CDC]  
Coalition of Citizens with Disabilities in Illinois [CCDI]  
Computer and Communications Industry Association [CCIA]  
Consumer Electronics Manufacturers Association [CEMA]  
CONXUS Communications, Inc. [CONXUS]  
Coombs, Elizabeth J. (Banning CA)  
CPB/WGBH National Center for Accessible Media  
DC-SHHH Group  
DeVilbiss, George (Falls Church VA)  
Dietrich, Nancy A. (Columbia IL)  
Eleoff, Susan (Ocean State Center for Independent Living, Warwick RI)  
Ericsson Inc. [Ericsson]  
Figler, Kevin  
Garretson, Mervin D. (Bethany Beach DE) (Delaware Association of the Deaf)  
Geeslin, David  
Governor's Council on Disability, Missouri Dept of Labor and Ind Rel [MoGCD]



Griffith, Robert E. (Springfield IL) (SHHH, Central Illinois Chapter)  
GTE  
Hernandez, Carmen  
Hoffman, Lisa  
Hoshauer, Lillian (Deaf-Hearing Communication Centre, Inc., Holmes PA)  
Huber, Theodore G. (South Jacksonville IL)  
Illinois Deaf and Hard of Hearing Commission  
Illinois Department of Human Services [IDHS]  
Information Technology Industry Council [ITI]  
Ireland, Joan P. (San Diego CA)  
Ismail, Massa Jr.  
Janes, Malisa W. (Houston TX)  
Justice for All  
Kailes, June Isaacson (Los Angeles CA)  
Kear, Gail B. (Bloomington IL) (Living Independence for Everyone)  
LaPointe, Leo A. (Worthington OH)  
Learning Disabilities Association of America [LDA]  
Lucent Technologies [Lucent]  
Maroney, Donald E. (Loveland CO)  
Mechem, Kirke (San Francisco CA)  
Missouri Assistive Technology Council and Project  
Mitchell, Laura Remson (CA)  
Motorola, Inc. [Motorola]  
Multimedia Telecommunications Association [MMTA]  
Mulvany, Dana (Campbell CA)  
National Association of the Deaf [NAD]  
National Council on Disability [NCD]  
NC Assistive Technology Project  
Nelson, David J. (Washington DC)  
Nextel Communications, Inc. [Nextel]  
Northern Telecom Inc. [Nortel]  
Oklahoma Department of Rehabilitation Services [OKDRS]  
Perrin, Shelly  
Personal Communications Industry Association [PCIA]  
Philips Consumer Communications LP [Philips]  
Polotto, John  
Powell, Michael  
President's Committee on Employment of People with Disabilities [PCEPD]  
Radtke, Richard  
Rank, Arvilla (Landover Hills MD) (National Catholic Office for the Deaf)  
Rochester Institute of Technology; National Technical Institute for the Deaf [RIT]  
SBC Communications Inc. [SBC]  
Self Help for Hard of Hearing People, Inc. [SHHH]

Sergeant, Randy (Scottsdale AZ)  
Shell, Reginald D. (Brooklyn NY) (Community Options, Inc.)  
Siemens Business Communication Systems, Inc.  
Sosenka, Lana (Austin TX) (Texas State Independent Living Council)  
Storm, Maia Justine (Lansing MI) (Michigan Protection and Advocacy Service)  
Telecommunications for the Deaf, Inc. [TDI]  
Telecommunications Industry Association [TIA]  
The Advocacy Center (New Orleans LA)  
The Lighthouse Inc. (New York NY) [Lighthouse]  
The Long Island Center for Independent Living, Inc. (Lavation NY) [LICIL]  
Uniden America Corporation [Uniden]  
United Cerebral Palsy Associations [UCPA]  
United States Telephone Association [USTA]  
Universal Service Alliance [USA]  
Valentine, Patrick  
Vickery, Ronald H. (Rome GA)  
Vickery, Ronald H. (erratum)  
Wilson, Sara Blair (Pearl River NY)  
Wisconsin Ass'n of the Deaf Telecommunications Advocacy Network [WI-TAN]  
World Institute on Disability (Oakland CA) [WID]

**\*\*NOTE:** Center for Disability Rights comments contain separate comments of Patricia Carpenter, Kevin Figler, Carmen Hernandez, Lisa Hoffman, Ismael Massa Jr. & Shelly Perrin.

**Late-Filed Comments:**

American Foundation for the Blind [AFB]  
California Public Utilities Commission  
Campaign for Telecommunications Access  
Center for Independent Living of Northeastern Minnesota [CILNM]  
Commonwealth of the Northern Mariana Islands [CNMI]  
Lake County Center for Independent Living (Mundelein IL)  
LaPointe, Leo A. (Worthington OH)  
Office of Management and Budget [OMB]  
Oklahoma Assistive Technology Project [Ok-ATP]  
Schmittroth, Nicholas R. III  
Services for Independent Living (Columbia MO) [SIL]  
Trace Research & Development Center, University of Wisconsin-Madison [Trace]  
Tucker, Barbara J. (Banning CA)  
Welter, Carrie (Augusta GA)  
Witkin, Martin J. (Evanston IL)  
sushom@toad.net

**Replies**

Alliance for Public Technology [APT]  
American Foundation for the Blind [AFB]  
Ameritech  
Arch Communications Group, Inc. [Arch]  
AT&T  
Blackburn, Kathy  
Business Software Alliance [BSA]  
Cellular Telecommunications Industry Association [CTIA]  
Consumer Electronics Manufacturers Association [CEMA]  
Council of Organizational Representatives ... Deaf [COR]  
GTE  
Information Technology Industry Council [ITI]  
Institute on Disabilities  
League for the Hard of Hearing  
Lucent Technologies Inc. [Lucent]  
Microsoft Corporation [Microsoft]  
Motorola, Inc. [Motorola]  
Multimedia Telecommunications Association [MTA]  
National Association of the Deaf / Consumer Action Network [NAD/CAN]  
National Council of State Agencies for the Blind... [NCSAB]  
National Council on Disability [NCD]  
Nextel Communications, Inc. [Nextel]  
Nokia Inc. [Nokia]  
Personal Communications Industry Association [PCIA]  
Redcom Laboratories Incorporated [Redcom]  
SBC Communications Inc. [SBC]  
Self Help for Hard of Hearing People, Inc. + Bechtel [SHHH/Bechtel]  
Sprint Corporation [Sprint]  
Tandy Corporation [Tandy]  
Telecommunications for the Deaf, Inc. [TDI]  
Telecommunications Industry Association [TIA]  
Uniden America Corporation [Uniden]  
United States Telephone Association [USTA]  
World Institute on Disability [WID]

**Late-Filed Replies:**

LaPointe, Leo A.  
Campaign for Telecommunications Access  
Trace R&D Center [Trace]